

AMENDMENTS TO THE DRAWINGS

The attached drawing replacement sheet makes changes to Figs. 1 and 4 and replaces the sheets filed on July 8, 2008, including Figs. 1, 3 and 4, with the attached sheets including Figs. 1, 3 and 4.

Attachment: Replacement Sheets (2)

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Claims 1, 3-13 and 15 are pending in this application. By this Amendment, claims 1, 3-6 and 15 are amended, and claim 2 is canceled without disclaimer of or prejudice to the subject matter recited therein. Support for the amendments can be found, for example, in Figs. 1 and 2 and paragraph [0038] of the published specification. The specification and Figs. 1 and 4 also are amended to correct informalities. No new matter is added. Favorable reconsideration of this application is respectfully requested in view of the following remarks.

I. Information Disclosure Statement

The Examiner is requested to consider the information cited in the March 3, 2004 Information Disclosure Statement (IDS) and return to the undersigned a fully-initialed Form PTO-1449. Although the March 28, 2006 Office Action indicates that the IDS was considered, no initialed Form PTO-1449 was returned to the Applicant's representative or is found on the Patent Office's PAIR website.

II. Objection to the Drawings

The Office Action objects to the Drawings because of the prior amendments to Fig. 4. As requested by the Examiner, Fig. 4 is further amended to show the barriers more inboard at the fold relative to the absorbent body. In addition, paragraph [0012] of the specification is amended to make the description of Fig. 4 consistent with the drawing figure. Further, as all drawing sheets were replaced in the previous Amendment, there is no requirement that the new sheet numbers be consistent with the original sheet numbers. The original sheets were replaced. Moreover, all of the lines for reference numerals 4, 10, 11, 10b, 11b, 14-15, 14b,

15b, 17, 20 and 21 in Figs. 1-3 were previously been changed to dashed lines. Accordingly, it is unclear why the objection concerning those lines is included in the current Office Action. In view of the above, withdrawal of the drawing objections is respectfully requested.

III. Objection to the Specification

The Office Action objects to the specification as allegedly unclear. Paragraphs [0020] and [0021] of the originally filed specification are amended to clarify the description of the attachment points with respect to the rear edge and front edge (see paragraph [0037] of the published specification, which states that the attachment of the elastic elements 10, 11, 14, 15 in the front portion 5 of the diaper 1 is analogous to the attachment in the rear portion 7). Further, the folded structure of substantially Z-shaped cross section with the fold 22 or 23 directed towards the inside of the article does not extend to the terminal edge of the article. The folded structure of substantially Z-shaped cross section with the fold 22 or 23 directed towards the inside of the article is only provided at the front portion of the article (see paragraph [0036] of the specification as filed. Thus, description and drawings are consistent. Therefore, withdrawal of the objection is respectfully requested.

IV. 35 U.S.C. §112 Rejection

The Office Action rejects claims 1-13 and 15 under 35 U.S.C. §112, second paragraph. Claims 1, 6 and 15 are amended to obviate the rejection. Thus, withdrawal of the rejection is respectfully requested.

V. Prior Art Rejections

The Office Action rejects claims 1-3, 11 and 12 under 35 U.S.C. §102(b) over Suzuki, JP-A-64-77607, or alternatively under 35 U.S.C. §103(a) over Suzuki in view

of Robertson, U.S. Patent No. 5,026,364 and Sageser et al. ("Sageser"), U.S. Patent No. 5,496,428. The rejections are respectfully traversed.

First, Suzuki fails to disclose, in combination with the other claimed features, an absorbent article including a rear barrier formed in the rear portion and attached to the article along the rear edge of the article, and that a first side barrier is secured to the cover sheet of the article to form a first line of attachment, and a second side barrier is secured to the cover sheet to form a second line of attachment, the first and second lines of attachment extending under the rear barrier, and the first and second side barriers forming a pocket with the rear barrier, the pocket extending to the rear edge of the article and beyond the first and second lines of attachment, as recited in independent claim 1.

Suzuki discloses an article including an elastomer part 5 provided on a side flap 4, and an absorber 3 placed between a water-permeable top sheet 1 and a water-impermeable back sheet 2 (see Figs. 1-3 and 6 and Abstract). Suzuki does not disclose a rear barrier formed in the rear portion of the article as recited in independent claim 1. In addition, also Suzuki fails to disclose the claimed lines of attachment, which extend under the rear barrier. Thus, Suzuki necessarily fails to disclose the claimed pocket, extends to the rear edge of the article and beyond the first and second lines of attachment. Therefore, independent claim 1 is patentable over Suzuki for at least these reasons.

Second, there is inadequate evidence to support the Office Action's conclusion that it would have been obvious to one skilled in the art to modify the article disclosed by Suzuki with elements of the absorbent articles disclosed by Robertson and Sageser. The Office Action merely states that the combination would have been obvious "in view of interchangeability" of the articles. This conclusory

statement is insufficient to support an obviousness rejection, particularly taking into account the Patent Office's Examination Guidelines for Determining Obviousness Under 35 U.S.C. §103(a) in view of *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007). The Guidelines state that the Examiner should clearly articulate why the claimed invention would have been obvious. For example, the Supreme Court in *KSR* held that the Examiner "must [provide] some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness" (*KSR*, 82 USPQ2d 1385, 1396 (2007)). The Supreme Court noted that an invention "composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the art" (*Id.*). To establish obviousness, it must be shown that those of ordinary skill in the art would have had some "apparent reason to combined the known elements in the fashion claimed" (*Id.*). In this case, it is not at all apparent why *interchangeability* would have led one to the stated modification. Equally unclear is why the stated design modification would have been obvious to an ordinarily skilled artisan. The Office Action here fails to explain, with articulated reasoning or rational underpinning, why it would have been obvious to modify the article disclosed by Suzuki with elements of the absorbent articles disclosed by Robertson and Sageser. Simply because something could have been modified and a person of ordinary skill was capable of making the modification does not mean it would have been obvious to do so. Thus, there is inadequate evidence supporting the conclusion that it would have been obvious to modify the article disclosed by Suzuki with elements of the absorbent articles disclosed by Robertson and Sageser to result in the combination of features recited in independent Claim 1.

Further, even if Suzuki were modified to include elements of Robertson and Sageser, the combination would not have resulted in the claimed combination of features, including the claimed rear barrier formed in the rear portion and attached to the article along the rear edge of the article, and that a first side barrier is secured to the cover sheet of the article to form a first line of attachment, and a second side barrier is secured to the cover sheet to form a second line of attachment, the first and second lines of attachment extending under the rear barrier, and the first and second side barriers forming a pocket with the rear barrier, the pocket extending to the rear edge of the article and beyond the first and second lines of attachment, as recited in independent claim 1.

Sageser also fails to disclose a rear barrier, and thus fails to overcome the deficiencies of Suzuki. Robertson discloses a diaper 20 having barrier cuffs 62 attached to a liquid receiving surface 40 at an edge attachment 98 (see Fig. 1). Robertson also discloses a waistcap/waistband 78 (see Fig. 1). However, as shown in Fig. 1 of Robertson, any pocket formed by the barrier cuffs 62 and the waistcap/waistband 78 only extends to the waistband securement 94 and to the edge attachment 98. That is, any pocket formed by the barrier cuffs 62 and the waistcap/waistband 78 does not extend to the rear edge 83 of the diaper 20 and beyond the edge attachment 98. Thus, Robertson fails to overcome the deficiencies of Suzuki.

Therefore, Suzuki, either alone or in combination with Robertson and Sageser, fails to disclose and would not have rendered obvious, in combination of features recited in independent claim 1. Thus, independent claim 1 is patentable over the combination of Suzuki, Robertson and Sageser.

Claims 2, 3, 11 and 12 are patentable over the applied references at least by virtue of their dependence from patentable independent Claim 1. Thus, a detailed discussion of the additional distinguishing features recited in these dependent claims is not set forth at this time. Withdrawal of the rejections is respectfully requested.

The Office Action rejects claims 4-7, 13 and 15 under 35 U.S.C. §103(a) over Suzuki in view of Robertson, and further in view of Olsson et al. ("Olsson"), U.S. Patent No. 5,746,428, or alternatively under 35 U.S.C. §103(a) over Suzuki in view of Robertson and Sageser, and further in view of Olsson. The rejection is respectfully traversed.

Similar to claim 1, independent claim 15 recites, *inter alia*, a rear barrier formed in the rear portion of the article and attached to the article along the rear edge of the article, the first side barrier secured to the cover sheet to form a first line of attachment, and the second side barrier secured to the cover sheet to form a second line of attachment, the first and second lines of attachment extending under the rear barrier, and the first and second side barriers forming a pocket with the rear barrier, the pocket extending to the rear edge of the article and beyond the first and second lines of attachment.

As discussed above, Suzuki, Robertson and Sageser fail to disclose or render obvious these features. Further, Olsson fails to overcome the deficiencies of Suzuki, Robertson and Sageser. Olsson discloses an absorbent article having in one embodiment longitudinal folds 20 and 21 (see Fig. 1). In another embodiment, the article has transverse folds 20' and 21' (see Fig. 9). Olsson discloses that the longitudinal and transverse folds can be combined, thus providing barriers around all edges of the article (see col. 11, lines 63-67). The Office Action asserts that such a combination would result in the configuration of the rear barrier and side barriers

recited in independent claim 15. However, combining all four folds would result in the folds being joined to each other at respective inner folds 25 "attachment lines" (as best shown in Fig. 5 of Olsson). Thus, any pocket formed by the combination of a longitudinal fold and transverse fold 20 would not extend to the rear edge 6 of the article and beyond the inner folds 25. Thus, Olsson fails to overcome the deficiencies of Suzuki, Robertson and Sageser.

In addition, for the reasons discussed above, there is no reason why one skilled in the art would have modified the article disclosed by Suzuki with the elements of Robertson, Sageser and Olsson to result in the combination of features recited in independent claim 15. Therefore, independent claim 15 is patentable over the applied references.

Claims 4-7 and 13 are patentable over the applied references at least by virtue of their dependence from patentable independent Claim 1. Thus, a detailed discussion of the additional distinguishing features recited in these dependent claims is not set forth at this time. Withdrawal of the rejection is respectfully requested.

The Office Action rejects claims 8-10 under 35 U.S.C. §103(a) over Suzuki in view of Sageser, or alternatively under 35 U.S.C. §103(a) over Suzuki in view of Robertson and Sageser. The rejection is respectfully traversed.

Claims 8-10 are patentable over the applied references at least by virtue of their dependence from patentable independent Claim 1. Thus, a detailed discussion of the additional distinguishing features recited in these dependent claims is not set forth at this time. Withdrawal of the rejection is respectfully requested.

VI. Conclusion

For at least the reasons stated above, the Examiner is respectfully requested to reconsider and withdraw the outstanding rejections and objections, and to allow the present application.

In the event that there are any questions concerning this amendment, or the application in general, the Examiner is respectfully urged to telephone the undersigned attorney so that prosecution of the application may be expedited.

Respectfully submitted,

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